

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re: :
Lance David Lewis, : Case No. 19-10067-AMC
Debtor : Chapter 13

PROPOSED ORDER

AND NOW, this ____ day of _____, 2020, upon the Motion of Jay G.
Fischer, Esquire attorney for the Debtor, Lance David Lewis, the Objection to the Proof of Claim
of the Internal Revenue Service is hereby sustained and the Claim is Stricken.

HONORABLE ASHELY M. CHAN
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re: :
Lance David Lewis, : Case No. 19-10067-AMC
Debtor : Chapter 13

**OBJECTION TO PROOF OF
CLAIM OF DEPARTMENT
OF THE TREASURY-
INTERNAL REVENUE SERVICE**

NOW comes, Lance Lewis, (Debtor), by and through his attorney of record, Jay G. Fischer, Esquire, and states as follows;

1. The Debtor commenced this matter by the filing of a Chapter 13 Petition on January 4, 2019.
2. The Department of the Treasury-Internal Revenue Service (hereinafter referred to as "IRS"), filed a Proof of Claim, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference thereto.
3. The aforesaid Proof of Claim avers that the Debtor owes Thirty-One Thousand One Hundred Thirty-Eight Dollars and Eighty-Two Cents (\$31,138.82).
4. Form 410 attached to the Proof of Claim indicates the claim arises from income taxes, interest and penalties from tax periods ending December 31, 2008, December 31, 2010 and December 31, 2013.
5. The Debtor believes, and therefore avers, that some or all of the claim is barred by the applicable statute of limitations and/or other statutory limitations on the IRS which prohibit it from attempting to collect this alleged debt.
6. The Debtor believes, and therefore avers, that the estimated tax liability for tax year 2013 is excessive and inaccurate.
7. The IRS has been requested in writing to withdraw the Proof of Claim or, if appropriate, amend the Proof of Claim to address the foregoing issues.

8. The IRS has not responded to such request.

WHEREFORE, it is respectfully requested that this Honorable Court sustain Debtor's Objection to the IRS Proof of Claim and for such other relief as this Court may deem just and proper.

Dated: March 6, 2020

/s/ Jay G. Fischer
Jay G. Fischer, Esquire
VALOCCHI & FISCHER
342 E. Lancaster Avenue
Downingtown, PA 19335
(610) 269-0900 x2
(610) 873-8096 (fax)
jgf@vflawoffice.com
Attorney for Debtor

EXHIBIT “A”

Fill in this information to identify the case:

Debtor 1 LANCE DAVID LEWISDebtor 2
(Spouse, if filing) _____United States Bankruptcy Court for the: EASTERN District of PENNSYLVANIA
(State)Case number 19-10067-AMC**Official Form 410**
Proof of Claim

04/16

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim**1. Who is the current creditor?**Department of the Treasury - Internal Revenue Service

Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor _____

2. Has this claim been acquired from someone else?☒ No☐ Yes. From whom? _____**3. Where should notices and payments to the creditor be sent?**Federal Rule of
Bankruptcy Procedure
(FRBP) 2002(g)**Where should notices to the creditor be sent?**Internal Revenue Service

Name

P.O. Box 7346

Number Street

Philadelphia PA 19101-7346
City State ZIP CodeContact phone 1-800-973-0424

Contact email _____

Creditor Number: 14255086Uniform claim identifier for electronic payments in chapter 13 (if you use one)
_____**Where should payments to the creditor be sent? (if different)**Internal Revenue Service

Name

P.O. Box 7317

Number Street

Philadelphia PA 19101-7317
City State ZIP CodeContact phone 1-800-973-0424

Contact email _____

4. Does this claim amend one already filed?☒ No☐ Yes. Claim number on court claims registry (if known) _____

Filed on: _____

MM / DD / YYYY

5. Do you know if anyone else has filed a proof of claim for this claim?☒ No☐ Yes. Who made the earlier filing? _____

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? ☐ No
☒ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: See Attachment

7. How much is the claim? \$ 31,138.82
Does this amount include interest or other charges?
☐ No
☒ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.

Taxes

9. Is all or part of the claim secured? ☒ No
☐ Yes. The claim is secured by a lien on property.
Nature of property:
☐ Real Estate. If the claim is secured by the debtor's principal residence, file a Mortgage Proof of Claim Attachment (Official Form 410-A) with this Proof of Claim.
☐ Motor Vehicle
☐ Other. Describe: _____
Basis for perfection:
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of Property: \$ _____

Amount of the claim that is secured: \$ _____

Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) % _____

- ☐ Fixed
☐ Variable

10. Is this claim based on a lease? ☒ No
☐ Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? ☐ No
☒ Yes. Identify the property See Attachment

12. Is all or part of the claim entitled to priority under 11 U.S.C. §507(a)?☒ No☐ Yes. Check all that apply:

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

☐ Up to \$2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

☐ Wages, salaries, or commissions (up to \$12,850*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

Amount entitled to priority

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

*Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it.
FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☒ I am the creditor.☐ I am the creditor's attorney or authorized agent.☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this Proof of Claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this Proof of Claim and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 02/27/2019

MM / DD / YYYY

/s/ MICHELLE ALLEN

(Signature)

Print the name of the person who is completing and signing this claim:Name MICHELLE

First name

Middle name

ALLEN

Last name

Title Bankruptcy SpecialistCompany Internal Revenue Service

Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 600 ARCH STREET

Number

Street

PHILADELPHIA

City

PA

State

19106-1611

ZIP Code

Contact Phone (267) 941-6321

Email: _____

Proof of Claim for Internal Revenue Taxes

Department of the Treasury/Internal Revenue Service

Form 410
Attachment

In the Matter of: LANCE DAVID LEWIS
330 JENNIFER DRIVE
COATESVILLE, PA 19320

Case Number
19-10067-AMCType of Bankruptcy Case
CHAPTER 13Date of Petition
01/04/2019

The United States has not identified a right of setoff or counterclaim. However, this determination is based on available data and is not intended to waive any right to setoff against this claim debts owed to this debtor by this or any other federal agency. All rights of setoff are preserved and will be asserted to the extent lawful.

Unsecured General Claims

<i>Taxpayer ID Number</i>	<i>Kind of Tax</i>	<i>Tax Period</i>	<i>Date Tax Assessed</i>	<i>Tax Due</i>	<i>Interest to Petition Date</i>
XXX-XX-9751	INCOME	12/31/2008	05/30/2011	\$9,598.10	\$4,908.39
XXX-XX-9751	INCOME	12/31/2010	03/05/2012	\$2,377.00	\$741.96
XXX-XX-9751	INCOME	12/31/2013	1 Estimated- SEE NOTE	\$2,861.80	\$554.37
				<u>\$14,836.90</u>	<u>\$6,204.72</u>

Penalty to date of petition on unsecured general claims (including interest thereon) \$10,097.20

Total Amount of Unsecured General Claims:**\$31,138.82**